

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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VICTOR BENITEZ,

Plaintiff,

-against-

THE CITY OF NEW YORK, "JOHN" SMITH, the first
name being unknown and fictitious, being a Captain
employed by the New York City Correction Department,
and "JOHN" GAINES and "JANE" SANTIAGO, the
first names being Correction Officers employed by the
New York City Correction Department,

Defendants.
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**STIPULATION AND
ORDER OF
SETTLEMENT AND
DISCONTINUANCE**

07 CV 4814 (PAC)

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DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: JAN 31 2008

WHEREAS, plaintiff commenced this action by filing a complaint on or about
June 6, 2007, alleging that defendants violated his federal civil and state common law rights; and

WHEREAS, defendants have denied any and all liability arising out of plaintiff's
allegations; and

WHEREAS, the parties now desire to resolve the issues raised in this litigation,
without further proceedings and without ^{defendants} admitting any fault or liability;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by
and between the undersigned, as follows:

1. The above-referenced action is hereby dismissed with prejudice, and
without costs, expenses, or fees in excess of the amount specified in paragraph "2" below.

2. Defendant City of New York hereby agrees to pay plaintiff the total sum
of SIXTY THOUSAND (\$60,000.00) DOLLARS in full satisfaction of all claims, including
claims for costs, expenses, and attorneys' fees. In consideration for the payment of this sum,
plaintiff agrees to the dismissal of all the claims against defendants City of New York and
Correction Officers Allen Gaines, Lydia Santiago and Jerome Rice, and to release all defendants;

their successors or assigns; and all past and present officials, employees, representatives, and agents of the City of New York, or any agency thereof, from any and all liability, claims, or rights of action that were or could have been alleged in the complaint in this action, including all claims for attorneys' fees, expenses, and costs.

3. Plaintiff shall execute and deliver to defendants' attorney all documents necessary to effect this settlement, including, without limitation, a general release based on the terms of paragraph "2" above and an Affidavit of No Liens.

4. Nothing contained herein shall be deemed to be an admission by defendants that they have in any manner or way violated plaintiff's rights, or the rights of any other person or entity, as defined in the constitutions, statutes, ordinances, rules or regulations of the United States, the State of New York, or the City of New York or any other rules, regulations or bylaws of any department or subdivision of the City of New York. This stipulation and settlement shall not be admissible in, nor is it related to, any other litigation or settlement negotiations.

5. Nothing contained herein shall be deemed to constitute a policy or practice of the City of New York.

6. This Stipulation and Order contains all the terms and conditions agreed upon by the parties hereto, and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation and Order regarding the subject matter of the instant proceeding shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein.

Dated: New York, New York
January 30, 2008


MATTHEW FLAMM, ESQ.
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MICHAEL A. CARDOZO
Corporation Counsel of the
City of New York
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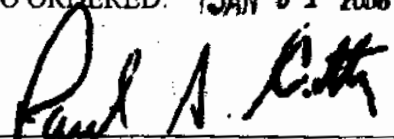
By:


Matthew Flamm
Attorney for Plaintiff

By:


Brian G. Maxey
Assistant Corporation Counsel

SO ORDERED: JAN 31 2008


HON. PAUL A. CROTTY
UNITED STATES DISTRICT JUDGE